

MINUTES FROM THE JULY 12 PLANNING COMMISSION MEETING. These minutes have not been reviewed or approved by the Commission.

Petition of EE, LLC, to rezone approximately 106 acres from R-C, Conservation District, R-3, Medium Density, Two-Family Residential District, and R-4, Medium-High Density, Multi-Family Residential District to B-5, General Business District (Conditional) at 129, 305, 317, 415, 509 and 607 McConville Road to allow the construction of an approximately 1,000,000 square feet commercial shopping center. The proposed development would affect the following trailer parks: Westgate and Hawley.

Mr. Martin explained that the petition was in compliance with the City's Future Land Use Map, which recommended a Regional Commercial Use and Conservation Land Use for the subject property. He said regional commercial uses were defined as retail, restaurant, entertainment and hotel uses that draw customers from the entire region, such as Amherst, Campbell, Bedford, and Appomattox counties. He added that the conservation areas were intended to be kept as natural as possible in order to stabilize deep slopes, prevent soil erosion and provide for natural absorption of urban runoff. Mr. Martin told the Commission that there were several issues associated with this petition that they would have to discuss and consider, such as the displacement of existing residents, environmental impact, traffic impact, and overall design of the shopping center. He said the City conducted a traffic study of the Rt. 221-501 Expressway intersection, which included several traffic alternatives. He added that the traffic study showed several of those alternatives, and the alternative that the City had chosen to pursue at this time was Alternative Four. He said this alternative had been selected because it was more cost effective. Mr. Martin said the voluntarily submitted proffers did address most of the City staff's concerns; however, the staff would like the opportunity to discuss the proffers in more detail with the Planning Commission. He added that Planning Division did support this rezoning petition, but suggested that the Planning Commission conduct a work session on the petition after the public hearing, which was at the discretion of the Commissioners.

Mr. Raymond Booth represented the petition. Mr. Booth explained that EE, LLC, was a partnership between English Construction and Eason Corporation, and added that English Construction had been in business for one hundred (100) years and was located in downtown Lynchburg. He continued by saying that Eason was a large shopping center developer, who had been in business for over twenty (20) years and worked on the east cost. Mr. Booth added that they optioned the property a year ago, but the design of the future interchange would impact the design of the shopping center, and all of the right-of-ways involved would take over fifteen (15) acres of the property. He explained that this led the City to do the traffic study, which took approximately six (6) months to complete. He added that from that study, the City recommended Option Four because it was the least expensive option that would still meet the demands of the entire region as well as meet the goals of the Comprehensive Plan.

Mr. Booth told the Commission that after the traffic study the next step was dealing with the streams and environmental issues. He noted that this property was at the top of the head of a watershed and that no water flowed through the property, but started or originated on this property. He said the developer had met with the Department of Environmental Quality (DEQ) and the Army Corp of Engineers (Corp) and had some verbal understanding of how they could go about handling the runoff and agreed to mitigate four thousand (4,000) feet of runoff by proffering to spend money within the watershed, preferably along Blackwater Creek and Lynchburg College Lake, which DEQ and the Corp both supported. Mr. Booth told the Commission that the City requested a four (4)-lane public road through the site, and that would still need to be approved by City representatives. He added that the construction of that road would dramatically reduce the traffic on McConville Road.

Mr. Frank Cox, The Cox Company, Charlottesville, Virginia, introduced himself to the Commission and explained that his company was developing the master plan for the proposed development. He noted that when developing a plan for a project one must compete with a number of challenges such as transportation, engineering, and environmental aspects, all of which must be addressed successfully. He said what his company had tried to do in the last six (6) to eight (8) months had been that of coordinating with the City to examine the alternatives to best integrate and provide maximum traffic carrying capacity, include internal transportation that would augment the alternative for improvements, and at the same time, see what they could do to handle on-site and off-site stormwater management using Best Management Practices.

Mr. Cox reviewed the project explaining that they were integrating some New Urbanism Transportation Principals. He added that the hallmark feature of the project would be a through connector road designed in a parkway format with two major roundabouts at key intersections into the retail center. He said they would have the East Center and the West Center with key land use features being two major blocks of retail in each Center, such as a large home improvement store and a large grocery center – one on each end, and would include several internal retail locations and a theater. He continued to explain that there would be a single entrance from Lakeside Drive, which would be widened and improved with a dedicated partial right of-way as a part of the overall improvements to be included in the Alternative Four Expressway Intersection Expansion.

Mr. Cox told the Commission that at the East end of the development there would be a hotel, restaurants, a coffee shop, small offices, and retail. He added that they would work with the Virginia Department of Transportation (VDOT) to develop a right-in, right-out in the north bound direction, which they think will relieve some of the congestion that could potentially exist at this intersection as the area builds up over the next several years.

Mr. Cox explained that the architecture would be a step better than some of the existing shopping centers around the community, which would include structures constructed of brick and pre-cast. He noted that the landscaping would meet the City's new Landscape Ordinance. He said they would be investigating low impact development opportunities, stormwater management – both on site and off site – as well as the preservation of a substantial portion of the stream channel on the eastern side of the property. He added that some of the Low-Impact-Development's (practices) (LID) they would be looking at would actually involve landscape medians and infiltration measures that could be placed inside of the parkway medians.

Mr. Tony Lloyd, Lot 121, Westgate Mobile Home Park, spoke in opposition to the petition. Mr. Lloyd noted several locations in the city that were vacant and questioned the feasibility of building another shopping center. He added that traffic on Lakeside Drive was already very heavy. He said that big businesses and shopping centers attract gang -bangers, speeders and reckless drivers and stressed that they did not need the riff raff in their neighborhood, which had a very low crime rate and low drug activity. Mr. Lloyd told the Commission that some residents of Westgate had lived there for over twenty (20) years, most of which would move to Campbell County. He said they had called Forest Road Trailer Park but there were no vacant spaces, and Brentwood Trailer Park charged \$250 to \$300 lot rent which no one could afford.

Ms. Patricia Holliman, Westgate Trailer Park, spoke in opposition to the petition. Ms. Holliman said the money that the developer was offering the residents was not enough for them to move their trailers. She explained that when they moved, the residents would be out of their homes for thirty - (30) days or more because the trailer would not be set up immediately upon moving.

She added that after the trailer was set up all of the utilities would need to be connected and then inspected, which would be additional money out of the residents' pockets.

Mr. John Romano, President of New Towne Homeowner's Association (the Association), spoke for the organization. Mr. Romano explained that New Towne was a family oriented, residential community made up of one hundred eighty (180) single-family homes and twenty five (25) town homes. He said the Association was not totally against the development, but did share the same concerns of the previous citizens who spoke before him. He added that the Association supported the City of Lynchburg and its continued growth and development and proven quality of service to the citizens. However, he said, the Association had identified many concerns that they felt they had a better knowledge of than the developers because they lived in the community.

Mr. Romano explained that the citizens of New Towne felt that without careful attention, the quality of life they had enjoyed in their neighborhood would be negatively impacted. He said that one of their concerns included road improvements. He continued by saying that road improvements needed to be adequately planned and budgeted for so McConville and Wyndale Roads would have good traffic flow. He added that they would like to see a light installed at the corner of McConville and Graves Mill Road due to the increase in traffic with the opening of Home Depot.

Mr. Romano said that public safety was also a concern for the neighborhood. He said they did not want a Candler's Station effect in their neighborhood with large disorderly groups of juveniles hanging around requiring the police to respond to unruly situations. He asked what type of crime prevention was being designed for the neighborhood's safety.

Mr. Romano told the Commission that the residents of New Towne wanted to include McConville Road in the developer's landscape / beautification plans, not just the shopping center, and added that this was an opportunity for the City to develop more landscaping throughout McConville Road to foster additional development. He said the Association would be encouraged to form partnerships with the City and the developer to foster those goals and possibly offer assistance and guidance as to what the residents would like to see.

Mr. Romano explained that the Association was also concerned about environmental issues. He said they would like this development to plan and budget for proper drainage of the proposed shopping center. The Home Depot had a retention pond, and due to the acreage of this site they must have to have something similar for this development. He said the Association was concerned about mosquitoes and an influx of activity.

Mr. Romano said that the New Towne Homeowners Association was committed to work with the City for the proposed Lakeside Centre to form creative partnerships that would foster the improvements and superior quality of life and services that were enjoyed by the citizens of New Towne.

Mr. Everett Heath, Chairman of the Board of the Lynchburg Peace Education Center, spoke in opposition to the petition. Mr. Heath referred to Page 8 of the report dealing with traffic and roadway concerns. He said the solution was not more cars and more roads, but more alternative transportation. He noted that in discussing the environmental concerns there seemed to be many more streams than just several spring-fed streams on the property as mentioned earlier, and asked for an exact number of "several". He added that these streams were feeding into College Lake, which already had a major environmental situation. Mr. Heath voiced his concern about people being displaced from the two trailer parks and added that many of these trailers were not acceptable to more modern parks and would not be moved. He stressed that suitable

housing had to be made for all of these families. He suggested that maybe the Commission should suggest that a contract be made by the contractors or even Habitat for Humanity to build homes for some of the displaced residents.

Mr. Robert Poignat, Jr., 300 Lansing Avenue, spoke in opposition to the petition. Mr. Poignat explained that his first concern was with greedy expectations on the part of the developer, and a City strapped for cash seem to be driving this proposal. He added that some residents think that the greedy expectations should not be filled at the expense of persons living in low-income housing nor at the loss of open space. He told the Commission that he had five questions. He began by asking if the expectations for this development were realistic. He asked if the City was about to shoot itself if they spent millions of dollars in downtown redevelopment and then built a shopping center like the proposal. Mr. Poignat added that the Riverfront investments had not even had a chance to pay off. He asked if persons in the proposed market area had been surveyed to see if they were willing to patronize this development. He asked if the consumers in the target area were willing to see fifty - (50) low-income housing units and open space be destroyed when many shopping options exist and vacant retail space sat idle.

Mr. Poignat said that Lynchburg had family values that must be supported above greedy expectations. He added that citizens valued housing for income challenged families, which was demonstrated by their support of Habitat for Humanity and Rush Family Homes. He suggested that the developer set aside property for low-income housing in addition to open space on the undevelopable land. Mr. Poignat discussed the loss of open space. He said that while the developer attempted to set aside open space, there was still a net loss of that space, and added that the contribution of such space was under valued. He added that open space cleansed air pollutants, trapped carbon dioxide exhaust and particulates, naturally cooled the City, and provided oxygen and natural areas for refreshing of the soul.

Ms. Rebecca Mosley, Westgate Mobile Home Park, Lot 130, said she was not in direct opposition to the development as she understood the tax dollars that the City would receive. However, she told the Commission that she had checked into Habitat for Humanity and they could not process her application because she did not meet the minimum income requirements for the size of her family. She added that she was currently looking at other options; however, they were few and far between. Ms. Mosley encouraged the Commission to make a wise decision.

Mr. Dan Ulevich, Turtle Creek neighborhood, spoke against the petition, echoing the comments from the speakers before him. Mr. Ulevich expressed his concern with environmental effects, the effects on the people who would be displaced, as well as the possible increase of the crime rate and the quality of the neighborhood in general. He explained; however, that his main concern was traffic, noting that major reconstruction would have to be done to improve the traffic flow. He said that his investigations showed that ninth-eight (98) percent of the funding for the road improvements was suppose to come from VDOT, and noted that the General Assembly had not been very expedient in approving VDOT's funding. Mr. Ulevich told the Commission that in his conversations with the City's Traffic Engineer he indicated that these improvements would probably not be completed by the time this development was scheduled to open. He urged the Commission to recommend that this project not be allowed to go forward until it could be guaranteed that the transportation improvements would be completed in advance of the development's opening.

Mr. Larry Farmer, 1503 Grace Street, spoke in opposition of the petition. Mr. Farmer read a letter that he had previously sent to several environmental groups, including the Planning Commission, voicing his concern with the environmental issues associated with this development. He said he had been involved in environmental aspects through out the City, especially the proposed sites on Lakeside Drive. He said he had sent his letter to over one hundred (100)

environmentalists urging those individuals to attend the Planning Commission and City Council meetings.

Mr. David Mass addressed the Commission in opposition to the petition, explaining that he lived in the approximate area of the proposed development. He added that development did offer a lot of positive amenities to the area and had a pleasing architectural design. However, he continued, one major issue the Planning Commission needed to consider was the competition in Lynchburg for the new development. He said his concern was that this development would work to compete with or undercut some of the other investments and developments, especially in the downtown area. He asked that the rezoning that was being requested at this meeting be considered, but only as a last resort, after all of the other available locations in the City were considered and ruled out for good reasons. Mr. Mass said he was concerned about the traffic, which was already an issue and continued to increase in volume. In conclusion, he said, the development ideas were very positive in terms of what Lynchburg needed or wanted in general, but questioned if this location was best place to put this development.

Mrs. Juanita Lloyd, Westgate Trailer Park, Lot 121, spoke in opposition to the petition. Mrs. Lloyd asked why the City wanted to uproot families and destroy a community. She said she had contacted several other trailer parks in the area and half of the places she contacted would not accept their trailers, and not all of them accept pets. She added that lots of families who lived there were low income and may be forced into bankruptcy. She noted that Habitat for Humanity had guidelines but many people who lived there did not qualify for the guidelines. Mrs. Lloyd commented that bringing in money was great, but they did not have the money to move and the money they were being offered was not worth the time and trouble. She explained that they would have to stay in a hotel and put their pets in kennels, and they did not have the extra money to do this. Mrs. Lloyd asked the Commissioners if they had live in the citizens' shoes - - had they been laid off work; had they had no income coming in and had to scrape money together to buy groceries. She asked if they had been that low on the ground, because the residents of Westgate Trailer Park were that low.

George King, 1116 Turtle Creek, spoke in opposition to the petition. Mr. King said that he had lived in many different places outside of the United States. He said he was concerned about the traffic pattern and added that bottlenecks happened when traffic did not meet its destination. He noted that when five or six lanes dwindled down to two lanes before traffic bled off, then you had a bottleneck, and that really concerned him.

Mr. Booth gave a rebuttal. He said the developers were very sympathetic to the concerns of the neighbors. He explained that Mr. Scott, owner of the land, had been trying to sell it for over five years and they were finally able to reach an option to purchase the site. He added that there was roughly forty- (40) trailers owners in Westgate Mobile Home Park that rent their lots. He said they had met recently with all of the people in Westgate and shared with them what was going on and what was going to happen. Mr. Booth noted that they had given them a list of vacancies in trailer parks within a five to seven miles radius of their property, and added that there were forty-four (44) vacancies within one-fourth mile of their property. He said that fourteen (14) of those vacancies were in Brentwood Park. He told the Commissioners that Brentwood had a number of empty trailers that the owner was going to remove from the park. He continued by saying that within Forest Brook Road Trailer Park there were twenty-one (21) empty spaces plus five spaces that had been previously zoned and approved but not yet developed. Mr. Booth said he had talked to the owners of both trailer parks and they were taking reservations for those spaces, and added that they were all within walking distance of where these people currently live. He said that where over forty- (40) vacant trailer spaces within five or six miles of this site. He explained that they had introduced a mover to the residents who had looked at some of the very old trailers, and noted that there was nothing by

law that said the trailers could not be moved based on age; they just had to be made safe before the residents moved back into them. Mr. Booth told the Commission that the developer offered the residents \$2,500 up front with an additional \$500 when they actually moved the trailer off the property. He continued by explaining that if the property owner, such as Mr. Scott, closed his trailer park, then by law the residents had to be given one hundred twenty (120) days notice to move. He said EE LLC had agreed to give them a minimum of six (6) months notice to move. He added that their option to purchase this property expired on November 1 of this year, and within thirty- (30) days they could tell the residents where the project was going forward and they would have at least six (6) months to move. Mr. Booth told the Commission that as soon as they decided to go forward with the development, the residents would be eligible for the \$2,500, and once they took the trailer off the property, they would get the additional \$500. He said himself and Milton Neal Properties were willing to assist the residents, and added that all of the residents had his cell phone number. He added that there were many trailer owners who were satisfied with the arrangements and were not represented by the people attending this meeting. Mr. Booth said all of the residents in Mr. Hawley's trailer park rented their trailers, which were basically fully furnished. He said the developer had agreed to give those residents at least \$1,000 to move and find another place to rent. He noted that Mr. Hawley had personally agreed to handle and help find his renters other locations to live.

Mr. Booth addressed concerns with the road improvements. He said that was the number one concern they had and understood that the shopping center could not be opened until significant road improvements had been made. He explained that the City Council had met recently to discuss the Midtown Connector project and they thought they had found ways to fund the Lakeside Road end of the project. He said the City planned to solicit design-build proposals in order to build that end of the project. Mr. Booth noted that the best they were looking at was to break ground next May or June 2007. He said that it would take that long to get permits and get the site plan, architectural standards, and the DEQ and Corp permits. He added that the earliest any store would open would be the fall of 2008, which was a little over two (2) years from now. He said the road improvements estimated cost was \$16 million, not just for this shopping center, but the whole region, which could be done within a two (2) – two and a half (2 ½) year time frame. He told the Commission that they proffered the traffic study within the shopping center to coordinate with the City so that the traffic improvements had to be in place before the stores could open.

Mr. Booth addressed public safety. He reviewed the dollar figures for construction and land cost, the real estate tax, the sales tax, and the meals tax incomes, and the fact that this development would provide 1,200 new jobs to the area. Based on those figures, he added, he felt sure that the City would be able to afford a few police officers if they needed to for public safety.

Mr. Booth talked about the demand and need for the shopping center. He noted that he was not a developer, but said that there was more interest in this site than in any area in the Lynchburg area in many, many years. He said the Lynchburg community had finally gotten large enough to accommodate two stores of the same kind. He added that due to the interest in this side of town, the City's Comprehensive Plan recommended a regional shopping center where these two main roads converged. Mr. Booth noted that the City was losing a lot of high end stores that were moving to the Jefferson Crossings area. He said there was a tremendous desire for people to locate in this area and they had expressed it to them, but they could not sign contracts until the property got rezoned.

Mr. Booth talked about landscaping, explaining that this development met the landscape ordinance, and added that the landscape would be very, very upscale.

Mr. Booth addressed environmental issues, explaining that they were a huge concern of the developers. He said until they met with the Corp and DEQ they did not proceed with the project. He added that they had also met with Dr. Ken Garren, President of Lynchburg College, and were going to have a separate meeting with all of the environmental groups to go over the project in more detail. He explained that there was going to be a partnership between DEQ, the COPR of Engineers, and the entire environmental community as to how they could mitigate the stream impacts within the water shed. He said this was going to be a first for this region where all of the mitigation was going to stay in the watershed in the community rather than be paid into a bank to be used elsewhere in the state. He said all of this money would actually stay locally and be used along the Blackwater Creek area.

Mr. Booth concluded by saying that the developer was very concerned about the residents, the road, and public safety. He said this was going to be a high end shopping center, the nicest one in Lynchburg, and added that it met the guidelines of the Comprehensive Plan. He said they had tried to address the neighborhood, landscape, and environmental issues, and would be happy to address any other issues that the Commission might have.

Ms. Cathy Marsh, Lot 110 Westgate Trailer Park, addressed the Commission. Ms. Marsh said she did not want to move outside of the City of Lynchburg due to convenience. She said it was a tough decision and Mr. Booth had been trying to help them out, but there was a lot more involved than there really was. She said when she moved her trailer originally it was taken care of by Freedom Homes, whom she bought the trailer from. Now, she added, she would have to do all of that herself. She said she did not have time to make the necessary phone calls and pick up permits, so she would have to have someone help her. She said she did not have extra money for a motel room and also had two pets that would need to be cared for. She said she saw deer, groundhogs, birds, from her trailer, which she enjoyed watching.

Commissioner Sale said there were a number of community concerns with being able to absorb the kind of development they were proposing over plans for redevelopment in other parts of the City. He asked how the developer justified that choice as opposed to redeveloping existing lots.

Mr. Booth explained that retail followed roof tops, especially new roof tops. He said the current growth in the City was basically in the Forest and Boonsboro areas, not in the areas that the City was trying to redevelop. He said the big box retailers would not come into areas slated for redevelopment because they needed/wanted more land and more parking.

Mr. Bruce Griffon, Eason Corporation, Leesburg, Virginia, explained that they decide where to build stores based on the demand of the tenant. He said the biggest concern for grocery stores, in this case, Martin's Grocery store, was the customer base and that they had the parking to accommodate that customer base, which was why they chose this specific location.

Commissioner Sale asked why they came to the particular monetary amount they were offering the mobile home tenants and did they think that was a sufficient amount.

Mr. Booth said they began with the intention that they really did not need to do anything for the residents and though that Mr. Scott, who had been their landlord for many years, could do something for them; however, he continued, they did agreed to assist. He said they discovered that the cost of moving a mobile home could be as much as five thousand dollars (\$5,000), but as they got further into the process, they found a number of trailer movers who would move the homes at a much lower fee. He noted that one mover would move the trailers for eighteen hundred (\$1,800) to two thousand dollars (\$2000), and then the cost of hooking the utilities up would be approximately five hundred dollars (\$500). So, he continued, they did not realize that the original number they had agreed upon would be adequate to move the trailers. Mr. Booth

explained to the Commission that their plan to give the residents the additional five hundred dollars (\$500) if they moved their trailer away was due to the fact that he got a quote from someone who said they would move the trailer away and recycle it for five hundred dollars (\$500).

Commissioner Sale commented that there were issues that were unresolved, such as traffic, and environmental, and added that he did not know if it was the place of the Planning Commission to deal with the displaced residents.

Commissioner Sale made the following motion, which was seconded by Commissioner Oglesby and passed by the following vote:

"That the Planning Commission close this public hearing and continue with a work session at the next meeting on July 26, 2006."

AYES:	Barnes, Oglesby, Sale, Worthington	4
NOES:		0
ABSTENTIONS:		0
ABSTEN:	Flint, Hamilton	2
VACANT POSITION:		1